

Governor Carney's Statement on United States Supreme Court Decision to Hear Delaware Case on Judicial Balance

WILMINGTON, Del. – Governor John Carney on Friday released the following statement on the U.S. Supreme Court's grant of certiorari in *The Governor of Delaware v. Adams*, agreeing to hear a Court of Appeals decision invalidating longstanding provisions of the Delaware Constitution that require political balance on the state's courts:

"We're pleased that the U.S. Supreme Court has decided to review the lower federal court decision regarding political balance on our state courts," said Governor Carney. "Delaware's judiciary has a longstanding reputation as objective, stable, and nonpartisan. That is largely thanks to the wisdom of those who wrote the Delaware Constitution. They understood the importance of keeping partisan politics out of Delaware's courts, which are widely respected nationwide for their excellence and garner tremendous respect from our citizens and members of our bar. I believe it's more important than ever to protect Delaware's appointment process from the partisan infighting that has come to characterize the federal appointment process. We look forward to presenting our case to the Court."

The Governor of Delaware v. James R. Adams case involves the proper interpretation of earlier Court rulings that concluded that lower-level government employees may not be fired on account of their politics – but carved out an exception for

those in higher-level roles, including in policymaking roles.

The Governor's petition noted that every other court to address the issue has held that judges are policymakers who fall outside the scope of the earlier decisions. Citing other U.S. Supreme Court decisions, the petition stressed that the lower court ruling violates the state's sovereign Tenth Amendment right to determine the qualifications of their most important governmental officials – a right "that lies at the heart of representative government." The petition also notes that if the lower court's decision were correct, it would cast doubt on dozens of federal and state agencies whose commissioners must, by law, be bipartisan.

Governor Carney is represented by Stanford Professor and former judge Michael McConnell; former Delaware Supreme Court Justice Randy Holland; Steffen Johnson and Brian Levy, all of Wilson Sonsini Goodrich & Rosati, P.C.; and by David McBride, Martin Lessner, and Pilar Kraman of Young Conaway Stargatt & Taylor, LLP.

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